



## Note No. A344/15

Protocol Directorate of the Foreign and Commonwealth Office presents its compliments to all diplomatic missions and international organisations and, further to the Directorate's Note A026/15 of 29 January 2015, has the honour to refer to the employment of private servants in diplomatic households.

The Directorate wishes to remind all missions and international organisations that, in accordance with Article 10 of the Vienna Convention on Diplomatic Relations 1961 (VCDR), missions and international organisations are required to inform Protocol Directorate of the arrival and final departure, or the termination of service, of any private servants working in diplomatic households. All missions and international organisations should use the Directorate's form TX9, available on the Protocol website for such notifications (hyperlink [here](#), password: Diplomatic2012), specifying the nationality and immigration status of the private servant.

Furthermore the Directorate wishes to remind all missions and international organisations that Article 41(1) of the VCDR requires that, *inter alia*, "Without prejudice to their privileges and immunities, it is the duty of all persons enjoying such privileges and immunities to respect the laws and regulations of the receiving State." This applies to the terms and conditions of employment (including hours of work and pay) and treatment of all private servants employed in diplomatic households. For ease of reference, the requirements to employ private servants in diplomatic households in the UK include:

- The private servant must be issued with a "certificate of sponsorship" from a sponsor licensed by UK Visas and Immigration (UKVI);
- The sponsor must be either a diplomatic mission or an international organisation recognised by Her Majesty's Government;
- The employing diplomat must:
  - agree to the terms and conditions that will apply to the private servant's employment and provide to the private servant, who shall submit them as part of their visa application, two originals of such terms signed by each of the employer and the private servant, which must be in the form specified in the Immigration Rules and thus include, among the other terms, confirmation that the private servant will be paid in accordance with the National Minimum Wage Act 1998 (NMW) and any regulations made under it, for the duration of the contract. At the time of writing, effective 1 October 2015, the adult NMW rate is **£6.70 per hour**;

- provide a written statement to the private servant, which is to be submitted with the private servant's visa application, confirming that the private servant is an employee and the work that will be carried out by the private servant will not constitute work within the meaning of paragraph 57 of the National Minimum Wage Regulations 2015 (from 6 April 2015, and previously paragraph 2(2) of the National Minimum Wage Regulations 1999). Paragraph 57 exempts from the National Minimum Wage Regulations work carried out by those living as part of the family where certain conditions are met. The exemption was designed for au pairs and the Immigration Rules clarify that the work to be carried out by private servants should not be of a type falling within such exemption.

An organisation that applies to be issued with a sponsor licence agrees to be bound by the terms of the guidance for sponsors published by the Home Office (hyperlink [here](#), see paragraphs 38.1 – 38.6). Such terms include acknowledging that the Home Office may seek a limited waiver of inviolability and immunity to carry out compliance activities aimed at ascertaining that the sponsor is meeting its sponsorship duties.

The Directorate wishes to advise all missions and international organisations that non-compliance with the terms of the sponsorship guidance and the duties set out therein could lead to the revocation by UKVI of the sponsorship licence. The Directorate would therefore be grateful to receive, by Monday 30 November, written confirmation that all private servants employed by Diplomatic, Consular and Administrative and Technical staff accredited to all missions and international organisations are fully compliant with the requirements detailed above.

In addition, the Directorate would like to bring to the attention of all missions and international organisations that, upon receipt of replies, UKVI compliance officers will consider whether a visit to the mission or international organisation would be desirable. If a visit is desirable, a limited waiver may be sought, in order to discuss compliance requirements with senior management, to examine related paperwork, interview employers and employees and, if necessary, discuss any examples of non-compliance that come to light. The point of contact at UKVI in relation to this matter is Mr Tanup Gadhia. Mr Gadhia's contact details are: **Mr Tanup Gadhia, Sponsor Compliance, UKVI, 4<sup>th</sup> Floor, Fleet Bank House, 2-6 Salisbury Square, Fleet Street, London, EC4Y 8JX on mobile: 07769 881987 or e-mail: Tanup.Gadhia2@homeoffice.gsi.gov.uk.**

Protocol Directorate of the Foreign and Commonwealth Office avails itself of this opportunity to express to all diplomatic missions and international organisations the assurances of its highest consideration.

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